



W.P.No.21280 of 2015

WEB COM **M.DHANDAPANI, J.**

This writ petition has been listed under the caption “for being mentioned” at the instance of the Registry on the ground that an inadvertent error has crept in the date of the order in W.P.No.21280 of 2019 of page No.1 wherein it has been typed as 03.02.2007 instead of 04.03.2025.

2. In view of the above, Registry is directed to carry out the necessary correction in the order dated 04.03.2025 replacing the date of the order in W.P.No.21280 of 2015 as 04.03.2025 in Page No.1 and issue a fresh copy of the order to the learned counsel for the parties. In other respects, the earlier order dated 04.03.2025 shall remain unaltered.

03.07.2025

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M.DHANDAPANI, J.

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W.P.No.21280 of 2015

03.07.2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 03.02.2007

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.No.21280 of 2015

1. The Management of
Dairy Development Corporation
Madhavaram,
Chennai - 51.

2. The Tamil Nadu Co-operative
Milk Producer's Federation Ltd.,
Madhavaram,
Chennai – 600 051.

Petitioners

..

Vs

1. The Presiding Officer,
1st Additional Labour Court,
Chennai -104.

2. Dhiravia Gandhi

3. P. Shanmugam

4. P. Muthu

5. M. Sundaram,

6. S. Periasamy

7. K.S. Prabakharan

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorari, calling for the records pertaining to the order of the first respondent in C.P.No.428 of 1990 dated 09.10.2014 and quash the same.

For Petitioner : Shri.P.Narayanamoorthy

For Respondents : Mr.S.Ravi for R2 to R6

R1 – Court

R1 and R7 (Dismissed vide Court
dated 19.03.2020)

order

ORDER

The petitioners are challenging the order of the first respondent, the Presiding Officer, Chennai in C.P.No.428 of 1990. The learned Presiding Officer has directed the petitioners to pay wages as follows:

(i) Mr.Dhiravia Gandhi	H.V.D.	Rs.1,04,720/-
(ii) Mr.Shanmugam	H.V.D.	Rs.1,04,720/-
(iii) Mr.Muthu	H.V.D.	Rs.1,04,720/-
(iv) Mr.Sundaram	H.V.D.	Rs. 50,430/-
(v) Mr.Periasamy	H.V.D.	Rs.1,14,615/-
(vi) Mr.Prabakharan	H.V.D.	Rs. 30,098/-

Total : Rs.5,09,303/-



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2. Questioning the correctness of the order passed by the first respondent in C.P.No.428 of 1990 dated 09.10.2014, the petitioners have filed this writ petition. This is the second round of litigation between the parties on the very same issue. Earlier, this Court had adjudicated the same relief between the parties in W.P.No.21280 of 2015 vide order dated 03.02.2007. This Court has remanded the issue to the first respondent Labour Court for fresh adjudication by way of the impugned order, the Labour Court has decided the computation petition once again and directed the petitioners to pay the salary to the respondents 2 to 7 for different periods specified therein.

3. Short facts necessary for disposal of the writ petition are as follows:

3.1. The legality and correctness of the said order is questioned in this writ.

3.2. Respondents 2 to 7 are the Drivers of the Heavy Vehicles of the Transport Unit of the petitioners and they entered on strike on 20.11.1980. They applied for Medical leave and when they were referred to Medical Board, they did not report duty. They did not produce any fitness certificate given by the Medical



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Board. Instead of that they filed claim petition C.P.No.253/81 for their wages from 01.12.1980 to 31.12.1980. The claim petition was allowed by the Labour Court.

3.3. A writ petition in WP No.553 of 1983 was filed against the order in C.P.No.253/81 and the High Court was pleased to order for payment of wages. According to the petitioners, the said order was complied with.

3.4. Thereafter, the second respondent tendered his resignation and relieved from duty on 07.07.1981 having accepted his resignation. The fifth respondent retired on attaining the age of superannuating on 30.06.1987. The seventh respondent was dismissed from service on 14.06.1984 by the Commissioner of Milk Production and Dairy Development for grave charges. Respondents 3, 4 and 6 were provided duties as they reported for duties.

3.5. While so, all the six respondents filed claim petition claiming their wages and other attendant benefits from 1981 to 1990 and the Labour Court dismissed the same holding that the issue involved is non-employment and for non-employment, Industrial Dispute alone can be raised and a claim petition under section 33(2) of I.D. Act is not permissible. Then the respondents 2 to 7 preferred a writ in W.P.No.6139 of 1995, High Court remitted the case to the Labour Court and thereafter the Labour Court passed order dated 21.11.2002. the said order was challenged before this Court in WP No.21280 of 2015. This Court remanded the matter to the Labour Court for fresh adjudication; whereupon, on consideration of the facts and circumstances of the case, the



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present order has been passed by the Labour Court. Challenging the same, the present writ petition has been filed.

4. The main contention of the petitioners is among six drivers, respondents 3, 4 and 6 were provided duties as they reported for duties. Respondent No.2 tendered his resignation and got relieved on 07.07.1981 itself and Respondent No.5 has retired on 30.06.1987 and Respondent No.7 was dismissed from service on grave disciplinary charges and those respondents are not entitled for the reliefs.

5. Therefore, according to the learned counsel for the petitioners, the contesting respondents are not eligible for any wages. Therefore, the learned counsel prayed that the award of the Labour Court may be set aside and this writ petition may be allowed.

6. The learned counsel for the respondents 2 to 6 justified the award and submitted that the Labour Court has gone into the averments raised by the workman and also the counter given by the management and has elaborately considered the issues and arrived at a finding that the respondents are eligible for wages. Hence, he submitted that the award of the Labour Court may be sustained.



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7. Heard the learned counsel on either side and perused the materials placed on record.

8. The Labour Court does not seem to have understood the purport of remanding the matter back to it. The Labour Court has simply extracted a few judgments of the Hon'ble Supreme Court to drive home the point that the said Court had jurisdiction to adjudicate the rights and entitlement of the workmen. Initially, the workmen were paid wages from 01.12.1980 to 31.03.1981. While so, the present claim petition is again filed for the period from 01.04.1981 to 31.01.1990.

9. The second respondent has claimed wages from 01.04.1981 to 31.01.1990; whereas he has resigned and relieved from service on 07.07.1981. Hence, he is not entitled for any wages after his resignation. Likewise, respondents 3, 4 and 6 have filed claim petition for wages from 01.04.1981 to 31.01.1990 but they are provided with duties and they reported for duty and they worked during the above period and received their wages. Therefore, they are not entitled to claim any further amount during the period of service.

10. It is also contended that the 5th respondent retired from service



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with effect from 30.06.1987 and the 7th respondent was dismissed from service on 19.06.1984 and therefore, they are also not entitled for any claim.

11. Having tested success in the first round of litigation in C.P.No.253 of 1981 and having got wages for period between 01.12.1980 to 31.12.1980, the workmen were probably under the impression that they could win bonanza by filing another Computation petition claiming wages for the period between 01.04.1981 to 31.01.1990. Of the six claimants, respondents 3, 4 and 6 had indeed joined the services and they worked continuously. They were paid wages for their services. Having enjoyed monthly wages, it is highly suspicious on the part of the respondents 3, 4 and 6 to have filed claim petition claiming wages for the period they have worked. Likewise, the second respondent has already resigned way back in 1981. The Respondent No.5 had retired from service in 1987 and it is admitted case that the respondent No.7 was dismissed from service in 1984. Therefore, none of the respondents had any legal right to claim wages for the said period.

12. The Labour Court has grossly erred in accepting the claim of the respondents. Indeed, this Court had remanded the matter specifically



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for re-consideration of the entire issue. The Labour Court has missed the point. Therefore, the writ petition is allowed and the award of the Labour Court in C.P.No.428 1990 dated 09.10.2014 is set aside. No costs.

04.03.2025

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Speaking Order : Yes/ No
Index : Yes/ No
NCC : Yes/ No



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M.DHANDAPANI., J.

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To
The Presiding Officer,
1st Additional Labour Court,
Chennai -104.

W.P.No.21280 of 2015

04.03.2025